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In re Application of
BLANCHARD et al.
Application No.: 09/806,473
PCT No.: PCT/IB99/01625
Int. Filing Date: 01 October 1999
Priority Date: 07 October 1998
Attorney's Docket No.: 205738US0PCT
For: NOVEL RHEOLOGY REGULATORS SUCH AS
GROUND NATURAL CALCIUM CARBONATES
OPTIONALLY TREATED WITH A FATTY ACID OR
SALT AND THEIR USE

DECISION ON
RENEWED PETITION
UNDER 37 CFR 1.42

This is a decision on applicant's renewed petition under 37 CFR 1.42 filed in the United States Patent and Trademark Office (USPTO) on 03 July 2002.

BACKGROUND

On 01 October 1999, applicants filed international application PCT/IB99/01625, which claimed priority of an earlier French application filed 07 October 1998. On 04 May 2000, a Demand for international preliminary examination was filed. Accordingly, the thirty month period for paying the basic national fee for processing in the United States expired at midnight on 07 April 2001.

On 09 April 2001, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter were, *inter alia*: the basic national fee and an English translation of the international application. In order to satisfy the requirement that an oath or declaration of the inventors be furnished, applicants also filed a declaration that was signed by applicant/inventors Pierre Blanchard, Detlef Gysau, Patrick Trouve and by Marion Loman-Oonk, as legal representative for deceased co-inventor, Henry Loman. The submission was treated as a request for status under 37 CFR 1.42.

On 27 November 2001, a decision was mailed to applicant indicating that the declaration, although signed by the legal representative of the deceased inventor, failed to provide the legal representative's country of citizenship, residency and mailing address.

On 27 February 2002, applicant filed a declaration of Marian Loman-Oonk, Legal Representative of deceased co-inventor Henry Loman, providing Ms. Oonk's country of citizenship, residency and mailing address.

On 03 May 2002, a decision on the renewed petition was mailed to applicant, indicating

that declaration submitted on 01 August 2001 did not state the country of citizenship, former residency and mailing address of the deceased inventor as well as for the legal representative.

On 03 July 2002, applicant filed a renewed petition under 37 CFR 1.42 along with a newly executed declaration.

DISCUSSION

37 CFR 1.497(a)(3) requires that the declaration must identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the capacity or relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. Furthermore, 37 CFR 1.497(b)(2) states that, if the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration must also state that the person is a legal representative and provide the citizenship, residency and mailing address of the heir(s)/legal representative.

Upon review of the declaration submitted on 03 July 2002, the declaration identifies each inventor and their respective country of citizenship, residency and mailing address as well as the country of citizenship, residency and mailing address of the legal representative. The declaration also identifies the country of citizenship, former residency and mailing address of the deceased inventor. The declaration is executed by the originally named inventors and by Marion Loman-Oonk, as the legal representative of the deceased inventor, indicating her capacity as legal representative. Thus, the declaration is now in compliance with 37 CFR 1.497.


Accordingly, it is now appropriate to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing in accordance with this decision. The 35 U.S.C. 371 date is 03 July 2002.


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